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UNCLAS SECTION 01 OF 05 TUNIS 000293

SIPDIS

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NEA/MAG (HOPKINS AND HARRIS), EB/CBA (WINSTEAD/GILMAN),
EB/TRA/AN(FINSTON),
STATE PASS USTR (BURKHEAD),
STATE PASS USPTO (ADAMS, BROWN, MARSHALL)
USDOC FOR ITA/MAC/ONE (NATE MASON), ADVOCACY CTR (REITZE),
CASABLANCA FOR (FCS ORTIZ),
CAIRO (SEVERENS AND MOEZIE)
LONDON AND PARIS FOR NEA WATCHER

E.O. 12958: N/A

TAGS: [ETRD](#) [EINV](#) [ECPS](#) [EFIN](#) [ECON](#) [KIPR](#) [TS](#)
SUBJECT: US-TUNISIA TIFA COUNCIL MEETING

REF: A. TUNIS 287
[1](#)B. TUNIS 211
[1](#)C. 07 TUNIS 1521

Summary

[1](#)1. (SBU) The March 10-11 US-Tunisia Trade and Investment Framework Agreement (TIFA) Council provided a productive exchange of information on areas where progress has been made, and areas where more progress is needed, in intellectual property rights (IPR), market access, services and investment. Both parties committed to work in partnership to strengthen our economic relationship. Specifically, the two sides will develop a three- to five-year program to set concrete objectives and cooperative efforts to move forward, with ongoing contact between Tunisian technical experts and the Mission. In addition to the formal TIFA meetings, AUSTR Donnelly and Ambassador Godec had excellent meetings (Ref A) with the Prime Minister, Commerce Minister, and Minister of Development and International Cooperation (MDIC). End Summary

[1](#)2. (U) The March 10-11 TIFA Council Meetings in Tunis were hosted by the Ministry of Development and International Cooperation (MDIC) and included a number of other GOT participants. The US delegation, led by Assistant United States Trade Representative (AUSTR) Shaun Donnelly, included the following officials:

Ambassador Robert F. Godec
Paul Burkhead, Director, USTR
Clarence Severens, Regional Financial Attache, Department of Treasury
Nathaniel Mason, Desk Officer, Department of Commerce
Mayra Caldera, Desk Officer, Department of Agriculture
Michael Fay, Regional Agricultural Attache, Department of Agriculture
Dorothy Shea, Political/Economic Counselor, Embassy Tunis
Beth Mitchell, Economic/Commercial Officer, Embassy Tunis

Overview

¶3. (SBU) During the opening plenary of the TIFA Council MDIC Minister Jouini said that Tunisia is committed to achieve concrete progress, in the interest of both countries, to expand and enhance our trade and development relationship and is ready to learn from the US experience. He stressed that diversification of the Tunisian economy is a top priority. AUSTR Donnelly said that he saw the TIFA as a way for both parties to develop a common vision and long-term objectives, such as creating investment and jobs in Tunisia, increasing Tunisian investment in the United States, and establishing building blocks to strengthen our economic relationship. AUSTR Donnelly suggested that the TIFA dialogue be continued through more regular meetings between Tunisian experts and EmbOffs, including developing a mechanism with MDIC to coordinate USG technical assistance and cooperative programs.

¶4. (SBU) During the working group sessions the US delegation raised specific US company concerns, IPR, investment climate issues, the need for liberalization of the services sector, and market access challenges (e.g., franchises). In addition, the delegation advocated for several US companies with pending project/export proposals before the GOT. It also offered technical assistance to Tunisia. The GOT was able to point to recent reforms and new legislation in IPR protection and investment since the last TIFA Council in ¶2005. The Tunisian delegation also stated their readiness to

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further improve their legal framework and the business climate through the TIFA process.

IPR

¶5. (SBU) During this working group session it was agreed that Tunisia has a good legislative framework in place but enforcement is lacking. The US delegation suggested that the GOT conduct high profile raids and seizures to publicly demonstrate its commitment to IPR enforcement. The US delegation also raised concerns over data exclusivity protection; asked for a final ruling on appeals filed by US pharmaceutical companies' correlated products; and encouraged the GOT to adopt a patent linkage system. The GOT delegation noted existing Tunisian IPR laws, and said that it has adopted the WTO TRIPS agreement and is open to joining other international agreements. They then listed several IPR laws including a December 27, 2007, law No. 2007-68 on geographic indicators for handicrafts. The Tunisian side noted the importance of geographic indicators for Tunisian agricultural products and handicrafts and suggested that the United States become a party to the Lisbon Agreement.

¶6. (SBU) Regarding data exclusivity, the GOT insisted that they have reinforced patent protection and respect data exclusivity. The Tunisians offered to study whether circular no. 40 (covering data exclusivity) needs to be turned into an administrative decree or law. The Ministry of Health representative said that he has never received any data exclusivity dispute cases related to either patents or data exclusivity, but that he is willing to review any such cases raised by US companies. He also said that although correlation was terminated in January 2007, it was not retroactive and that they were still studying the US pharmaceutical companies' appeals.

¶7. (SBU) During the plenary session, AUSTR Donnelly said that Tunisia's future is to develop high-value-added products, so IPR protection is important. While taking note

of the progress that Tunisia has made in its IPR regime, AUSTR Donnelly opined that customs officials and countries need to cooperate to improve IPR enforcement efforts. AUSTR Donnelly explained that the United States has a different approach to geographic indicators, but does believe some protection is appropriate. Jouini said that Tunisia is trying to get to a higher stage in the value chain and that its destiny is not to compete with China but to produce high value-added products. He added that Tunisia has made progress in IPR enforcement and that it is important to protect geographic indicators.

Market Access

18. (SBU) The market access working group discussed tariff systems, standards, rules of origin, phytosanitary regulations, and sectorial issues. Tunisia said that its average tariff rate in 2007 was 24.6 percent and intends to reduce this to 21 percent by the end of 2008. The US delegation said that US customs tariff rates are already quite low and that it does not envision any specific decreases in the short term other than those that may be negotiated to in the WTO Doha Round negotiations. The US delegation asked for and received an overview of tariff coverage under the EU-Tunisian Association Agreement. Tunisian representatives asked about technical issues related to the US rules of origin, agricultural products standards, phytosanitary certificates, and for a list of GSP eligible products. As there was no US expert in these areas present, the US delegation offered to follow-up with the FDA and the National Institute of Standards and Technology (NIST). Both

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sides agreed that the GSP program needs higher visibility in Tunisia and post has offered to conduct additional outreach, including a possible workshop with a GSP expert.

19. (SBU) In the plenary, AUSTR Donnelly said that the US approach to FTAs is a global approach where we negotiate services, agriculture, investment, and market access at the same time. Jouini replied that Tunisia wants to diversify partners, and recognizes that the United States' and the EU's approaches are not the same but that Tunisia is ready for this. Tunisia's association agreement with the EU is a comprehensive and all-inclusive accord but that it contains a gradual implementation schedule. He noted that as a result of the EU agreement, exports increased ten percent with the EU and that total investment from Europe increased ten times from 1996 to 2006. Jouini added that market access is an important step for preparing for an eventual free trade agreement (FTA) and said that he had learned that Tunisian exporters have a US market access mechanism available to them via the GSP program.

Investment

110. (SBU) The investment working group session covered the new GOT economic initiative law, each parties' concerns over the investment climate in the respective countries, and plans to better promote and attract increased foreign direct investment (FDI) over the long term. Tunisia's new economic initiative law No. 2007-69 (passed on December 27, 2007) establishes a negative list approach to facilitate economic investment. The GOT indicated that the negative list is under development but will be published in a few months. The Tunisian side also explained the ease with which a company can be established in Tunisia and how VAT refund time has been reduced from 70 days to just seven days. The GOT asked for clarification on US Mode 4 provisions (GATS - Movement of Natural Persons), noting the need to find ways to facilitate the movement of people. The Tunisian delegation commented that Tunisians may not invest in the United States because

they do not have market share or they run into visa regime and freedom of movement issues.

¶11. (SBU) USTR responded that the implementation of Mode 4 of GATS has proven to be a complicated issue for all WTO members, but that we have not received any complaints about Tunisian business people being unable to get a visa. The Treasury representative explained that the United States is open for business and that the Committee on Foreign Investment in the United States (CFIUS) process applies only to a minority of foreign investments which could potentially harm US national security interests. The US side broached several specific investment issues that US companies wanting to invest in Tunisia have encountered and pushed for liberalization of the services sector.

¶12. (SBU) In the plenary, AUSTR Donnelly stated that potential investors look for and talk to other successful investors before investing in a country. Attracting FDI is about creating confidence in the business environment. He used Singapore as a model, for setting the right investment climate to attract investors, that Tunisia might follow. Jouini said that he is committed to improve the investment climate and that he would like to work directly with the principals of several high profile US companies on targeted investment projects in Tunisia.

Services

¶13. (SBU) The services working group session discussed the growing and important role of the services sector in

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Tunisia's economy and initiatives taken to prepare the way for opening up this sector to competition. Stating that telecommunications services represents a strategic pillar for the development of a knowledge economy, the Tunisian side said that the GOT intends to grant additional licenses for fixed telephone operators in 2008 and plans to launch a call for interest for third generation modes of telecommunications in 2009. The US delegation pushed for further services liberalization, highlighting that if one opened the telecom and financial services sectors to competition, it would attract increased investment across the board since these two areas play such a pivotal role in all sectors and have a multiplier effect on the economy. The US delegation also asked to be informed about future legislation and/or future liberalization of this sector. GATS Mode 4 was also discussed during this session with the Tunisian side asking for clarification on the US Mode 4 provisions. The US delegation referred the Tunisians to the US GATS schedule which lays out some of our restrictions and to the text of our FTAs. Both sides agreed to continue consultations on non-conforming measures.

¶14. (SBU) During the plenary, AUSTR Donnelly suggested that the text of US free trade agreements be looked at and considered while Tunisia is discussing services liberalization with the EU. Jouini said Tunisia is working to liberalize the services sector with the EU, but it needs to proceed gradually and must consider the social and economic impact. He noted that Tunisia is working with the World Bank on a program to liberalize the financial services sector. There is a new profile for the Tunisian job market with services playing a major role in the economy and being the major employer for young university graduates. He said Tunisia is currently adopting a positive list approach in its negotiations under the EU Association Agreement but is interested in learning about the legal provisions of positive lists versus negative lists.

Next Steps

¶15. (U) Jouini asked for technical assistance in the areas of support for small and medium enterprises, innovation, and technology transfer. He said that both parties need to work together to create planned actions to put people together and to raise the visibility of US/Tunisian cooperation and to take our bilateral economic relationship to a higher level. Both sides agreed to work in partnership, between MDIC and the Embassy, on a 3-5 year program to engage in an ongoing dialogue and to set concrete objectives for a way forward. The program also includes developing US technical assistance programs under the umbrella of the TIFA and in coordination with the MDIC.

Comment

¶16. (SBU) A very congenial atmosphere surrounded this TIFA Council meeting. Discussions were open and frank but not contentious. The Tunisian side genuinely seemed interested in and willing to explore ways to build bridges and advance our economic relationship. The Tunisians are looking to diversify away from dependence on the EU market and the US market is becoming more attractive to them. Several officials asked detailed technical questions about US FTAs, that indicated a more serious level of interest than we had heard before. If we succeed in establishing a developing a sound program of regular engagement with MDIC and cooperative technical assistance programs under the TIFA umbrella, perhaps the bureaucratic obstacles that such programs have encountered in the recent past will be resolved. End Comment.

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¶17. (U) AUSTR Donnelly has cleared this cable.

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